



IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

JOANNE HART and AMANDA )  
PARKE, on behalf of )  
themselves and all others )  
similarly situated, )  
Plaintiffs, )  
-vs- ) No. 1:15-cv-04804  
BHH, LLC d/b/a BELL & ) (WHP)  
HOWELL and VAN HAUSER, )  
LLC, )  
Defendants. )

The deposition of PHILIP C. WHITFORD, Ph.D.,  
called for examination, taken before GAIL LIVIGNI,  
CSR No. 84-1965, a Notary Public within and for the  
County of Will, State of Illinois, and a Certified  
Shorthand Reporter of said state, at Suite 1100, 33  
West Monroe Street, Chicago, Illinois, on the 12th  
day of January, A.D. 2018, commencing at 9:30 a.m.

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1 count all the creatures which is an important part 11:45:12  
2 of getting an answer. And in the case of most 11:45:14  
3 studies like that, psychiatry, you're taking the 11:45:20  
4 rats which have been used to being in metal cages 11:45:24  
5 in the back room and in Plexiglas for their whole 11:45:26  
6 lives. The validity of those tests doesn't take 11:45:30  
7 into account strange surroundings as bringing in 11:45:36  
8 wild animals does. 11:45:40

9 Q. Okay. So if you were to take wild 11:45:46  
10 animals and confine them in Plexiglas enclosures, 11:45:48  
11 that might affect their behavior due to the fact 11:45:56  
12 that they are not used to such an environment, is 11:45:58  
13 that correct? 11:46:04

14 A. It might, but if you put them in in a 11:46:04  
15 pretest situation and find them to not being 11:46:06  
16 behaving in abnormal ways, then it's valid to begin 11:46:10  
17 the test. 11:46:16

18 Q. Okay. And as it pertains to the manner 11:46:16  
19 in which people would typically use ultrasonic pest 11:46:20  
20 repellers, you wouldn't typically expect them to be 11:46:24  
21 using them inside Plexiglas enclosures, would you? 11:46:26

22 A. You'd expect them to be using them 11:46:30  
23 within the design specifications and test 11:46:32  
24 specifications recommended. 11:46:36

1	MR. KOPEL: Can you please repeat the	11:46:40
2	question?	11:46:40
3	(WHEREUPON, the record was read	11:46:40
4	as requested.)	11:46:40
5	BY THE WITNESS:	11:46:40
6	A. I would not.	11:46:58
7	BY MR. KOPEL:	11:47:02
8	Q. It would be reasonable to assume that	11:47:02
9	they would use them in their homes, correct?	11:47:04
10	A. The purchasers?	11:47:08
11	Q. Yes.	11:47:10
12	A. Yes.	11:47:10
13	Q. And people don't live in Plexiglas	11:47:10
14	containers, do they?	11:47:14
15	A. Not most of the ones I know.	11:47:16
16	Q. And people's homes are far larger than	11:47:16
17	Plexiglas containers, correct?	11:47:24
18	MR. OSTOJIC: Object to form.	11:47:24
19	BY THE WITNESS:	11:47:26
20	A. Of course.	11:47:26
21	BY MR. KOPEL:	11:47:28
22	Q. And people's homes have corners in them	11:47:28
23	as opposed to Plexiglas containers, is that	11:47:32
24	correct?	11:47:34

1           A.     Plexiglas containers have corners.           11:47:34

2           Q.     I actually misspoke. There is a           11:47:38

3 possibility for sound shadows in people's homes           11:47:40

4 whereas there would not be that possibility in a           11:47:44

5 Plexiglas container, is that correct?           11:47:48

6           A.     No, there is still possibilities for           11:47:48

7 sound shadows. It depends on how exactly you           11:47:50

8 position the unit, but it's very linear, very           11:47:54

9 narrow focus. So even if Plexiglas is only this           11:47:58

10 big by that big --           11:48:00

11          Q.     Right.           11:48:02

12          A.     -- you got a unit here, it's going to be   11:48:02

13 affecting a path across that Plexiglas container           11:48:06

14 which is at most this wide on the other side.           11:48:10

15 These are sound shadows over here and here.           11:48:14

16          Q.     Right. How narrow is it?           11:48:16

17          A.     It depends on exactly the size of the           11:48:18

18 speaker and the orientation of it, but it will           11:48:20

19 broaden as it crosses the room just like a pattern           11:48:24

20 of shot from a shotgun gets bigger as it gets           11:48:30

21 farther away.           11:48:32

22          Q.     Could an ultrasonic device -- would a           11:48:32

23 single speaker ultrasonic device broadcast -- let           11:48:44

24 me rephrase.           11:48:50

1	Would an ultrasonic device affect an	11:48:52
2	area behind it?	11:48:54
3	A. No.	11:48:56
4	Q. Would it affect the area immediately	11:48:56
5	next to it?	11:49:00
6	A. Not at close range.	11:49:02
7	Q. How about underneath it?	11:49:04
8	A. No.	11:49:06
9	Q. And Plexiglas containers don't have	11:49:10
10	furniture, correct?	11:49:12
11	A. Correct.	11:49:14
12	Q. And they don't have carpeting, correct?	11:49:14
13	A. Yes, they do not have any furniture.	11:49:18
14	Q. And furniture is something that could	11:49:26
15	affect the efficacy of ultrasonic devices, correct?	11:49:28
16	A. True.	11:49:32
17	Q. And Plexiglas containers do not	11:49:34
18	have -- I don't know if this was captured on the	11:49:36
19	record earlier -- carpeting, correct?	11:49:40
20	A. One assumes not.	11:49:40
21	Q. And carpeting could affect the efficacy	11:49:42
22	of ultrasonic devices, is that correct?	11:49:46
23	A. Yes.	11:49:48
24	Q. Plexiglas containers do not contain	11:49:50

1 since then have kept the same pattern. 11:58:38

2 Q. You know, without the data from 2010 or 11:58:42

3 other years, let's say -- 11:58:48

4 A. It would be meaningless. 11:58:50

5 Q. Okay, so let me just finish my question. 11:58:52

6 You're anticipating correctly. If you had only 11:58:54

7 looked at 2009 with the unit on and seen zero, it 11:58:56

8 would be a meaningless result, is that correct? 11:59:00

9 A. From a scientific standpoint, 11:59:02

10 absolutely. 11:59:04

11 Q. Why? 11:59:06

12 A. Because you have to have a control. 11:59:06

13 Q. And without a control, as a matter of 11:59:06

14 science, the data from a study is meaningless, is 11:59:14

15 that correct? 11:59:18

16 A. Pretty much so, yes. 11:59:18

17 Q. Can you please look at a portion of 11:59:32

18 this -- of the Transonic report titled, "Study 11:59:40

19 Design?" 11:59:44

20 A. Yes. 11:59:48

21 Q. I'm looking at the third sentence here. 11:59:54

22 It reads, "This unit was set to the medium volume 11:59:58

23 and spider setting on the options for sound output 12:00:04

24 for the test. I did not use the mice sound setting 12:00:06

1 the European house mouse that was brought to this 12:27:00  
2 country, still is present in Europe, still used 12:27:02  
3 extensively for all kinds of behavioral tests, 12:27:06  
4 psychological tests and so forth; but they have 12:27:10  
5 over the years they're no longer subjected to the 12:27:14  
6 same natural selective courses that wild mice are. 12:27:22  
7 They've been living in protected environments with 12:27:26  
8 provided food and all the care and so forth for 12:27:30  
9 probably 300 or 400 years of research, at least 12:27:36  
10 200 years, and the result is that genetically they 12:27:40  
11 have drifted. Their gene patterns have become 12:27:44  
12 highly inbred, they have less variation than the 12:27:48  
13 wild mice would do because they haven't been 12:27:52  
14 subjected to the same forces. 12:27:54  
15 Q. So would it be reasonable to surmise 12:27:56  
16 that they might react to ultrasound differently 12:27:58  
17 than other types of mice? 12:28:02  
18 A. White lab mice, probably so. 12:28:02  
19 Q. Okay. Last question about this 12:28:06  
20 publication, can deer hear ultrasound? 12:28:10  
21 A. There is a good question about that. I 12:28:16  
22 know that people have tried to test it, but they 12:28:20  
23 test it in a situation where it doesn't reach them 12:28:22  
24 because of its lack of force, and they've also put 12:28:26



1           A.       They are not providing adequate basis to   14:58:18  
2       make that claim. To be well established means that   14:58:24  
3       it's repeated again and again. If you want an       14:58:26  
4       example of science going bad, it's the fact that       14:58:30  
5       it's impossible to get rid of misinformation       14:58:32  
6       because people keep citing it long after its time   14:58:36  
7       is done.   14:58:40

8                   The Journal of -- New England Journal of   14:58:42  
9       Medicine analyzed publications from 1990 to '99 in   14:58:46  
10      the Lancet and New England Journal of Medicine. It   14:58:50  
11      showed that 90 to 95 percent of those publications   14:58:54  
12      were rescinded or proved to be false within five       14:58:58  
13      years of their publication date, but the               14:59:04  
14      retractions were one page notes in the back part,   14:59:06  
15      so people keep citing them as being correct and       14:59:12  
16      factual because the retractions don't get the air       14:59:14  
17      play that other things do.                           14:59:18

18                  You remember the big thing about the       14:59:22  
19      Farmingham studies and cholesterol and you should   14:59:28  
20      not eat butter but you should eat margarine, and       14:59:32  
21      the fact that ten years later they turned around       14:59:36  
22      and say, whoop, sorry, the margarine, no, it           14:59:38  
23      doesn't make any difference, in fact it's worse for   14:59:42  
24      you because of the trans fats, you go -- but if you   14:59:44

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1 A. Potter's. 15:53:52

2 Q. Okay. 15:53:52

3 A. The Modesto apartments. 15:53:54

4 Q. Okay. Any others? 15:53:54

5 A. I don't know of my others that were done 15:53:56

6 specifically with the Bell & Howell repellers. 15:53:58

7 Wait, there was Qmann which was a six-room test 15:54:02

8 which is a catastrophic mistake in design. 15:54:06

9 Q. Okay. Did you see one Qmann test, or 15:54:10  
10 did you see two? 15:54:14

11 A. Two, insects and mice. The mixing of 15:54:14  
12 things in a six-room chambers, the very small 15:54:18  
13 number of animals used, it just -- it didn't have 15:54:26  
14 adequate evidence to determine anything. 15:54:28

15 Q. So would you say, based on the factors 15:54:34  
16 you identified, that the results of those tests are 15:54:38  
17 unreliable? 15:54:42

18 MR. OSTOJIC: Object to form, foundation. Are 15:54:44  
19 we referring to Qmann? 15:54:46

20 BY MR. KOPEL: 15:54:50

21 Q. Yes, thank you, the two Qmann reports. 15:54:50

22 A. The two Qmann reports and I would throw 15:54:52  
23 in the 2016 Chinese test which threw double numbers 15:54:56  
24 of rats in the same housing and left us testing the 15:55:00

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1 effects of overcrowding of rats rather than the 15:55:02  
2 effects of the repellents. 15:55:06

3 You have to go back to Calhoun, H. 15:55:08  
4 Calhoun's 1965 classic paper on overcrowding of 15:55:12  
5 rats. You find that and you find that any time you 15:55:14  
6 exceed one rat per three square feet, you'll have 15:55:18  
7 them killing each other, you'll have mayhem. The 15:55:20  
8 repellents would not be what you're measuring when 15:55:26  
9 you put 20 rats into 32 square feet. 15:55:28

10 Q. And by the way, thank you for citing 15:55:32  
11 Calhoun because I learned a lot from reading that 15:55:34  
12 article. So with regards to the two Qmann reports 15:55:36  
13 and the 2016 report -- and that was done by 15:55:42  
14 Intertek, I believe? 15:55:50

15 A. Yeah, those were badly designed. 15:55:52

16 Q. And as a result, would you say that the 15:55:54  
17 data produced by them is unreliable? 15:55:56

18 A. Absolutely. 15:55:58

19 Q. Now, I think you said one rat per three 15:56:10  
20 square feet, is that what you said? 15:56:16

21 A. Max. 15:56:18

22 Q. That's the maximum? 15:56:18

23 A. The maximum density before you have 15:56:18  
24 problems. 15:56:22

1 standard one.

16:11:54

2 Q. Okay. So did you see if this one has  
3 sweeping frequencies?

16:11:56

16:11:58

4 A. I don't know whether it has sweeping or  
5 broad spectrum.

16:12:02

16:12:06

6 Q. Does it matter?

16:12:08

7 A. As we discussed before, apparently it  
8 didn't matter for spiders or mice in my farm house,  
9 so it probably doesn't matter in this case if the  
10 frequency is right.

16:12:12

16:12:14

16:12:16

16:12:20

11 Q. So regardless of whether there was

16:12:20

12 sweeping or pulsating or static, you feel

16:12:22

13 comfortable drawing conclusions based on this model

16:12:26

14 to all the other Bell & Howell models, is that

16:12:30

15 correct?

16:12:32

16 A. Yes. As long as the frequencies are the  
17 same and the decibel levels are the same, I see no  
18 difference, and that was pretty much Dr. Mankin's  
19 conclusion when he tested the various ones.

16:12:32

16:12:34

16:12:40

16:12:44

20 Q. What species of mice was used in this  
21 test?

16:12:46

16:12:50

22 A. They weren't stated. The rats were  
23 black rats. The pictures show a mouse that could  
24 be light gray, or it could have been a white lab

16:12:50

16:12:54

16:13:00

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1 because I didn't ask anything about Mike Potter. 16:41:44

2 Does the data from this test show that 16:41:46

3 the Bell & Howell repellers are capable of driving 16:41:50

4 mice or rats out of the house? 16:41:52

5 MR. OSTOJIC: Same objections. 16:41:54

6 BY THE WITNESS: 16:42:02

7 A. Only if you have enough repellers to 16:42:02

8 cover the entire area of the house and keep them 16:42:04

9 exposed to the sound. 16:42:06

10 BY MR. KOPEL: 16:42:08

11 Q. That's supported by the data from this 16:42:08

12 test? 16:42:12

13 A. It's supported by common sense. The 16:42:14

14 test shows that they will repel them. That is the 16:42:18

15 thing that Bell & Howell claims is it will repel 16:42:24

16 them. Out of the house is Potter's definition of 16:42:28

17 success. 16:42:32

18 Q. I understand that you might disagree 16:42:32

19 with me about what is being claimed, and that's 16:42:34

20 not -- you've been on the record stating that, but 16:42:38

21 I'm asking you a specific question, okay? 16:42:40

22 Have you seen anything from this test to 16:42:44

23 imply that the repellers are capable of driving 16:42:46

24 these pests out of the house? 16:42:48

1 MR. OSTOJIC: Same objection and asked and 16:42:50  
2 answered. 16:42:50

3 BY MR. KOPEL: 16:42:50

4 Q. I'll keep asking. I just need a yes or 16:42:52  
5 no. 16:42:54

6 A. The test only covers four square -- or a 16:42:54  
7 32 square foot area. How can you answer that 16:43:02  
8 larger question on the basis of that small a 16:43:06  
9 sample? 16:43:10

10 Q. Does that mean that the data does not 16:43:10  
11 support that statement, or does it, yes, support 16:43:12  
12 that statement? That's my entire question. If the 16:43:14  
13 data is insufficient to support it, your answer 16:43:18  
14 might be no, but I'm looking for a yes or no, and 16:43:20  
15 I'm happy to let you elaborate, but I've asked you 16:43:22  
16 a yes or no question several times now. 16:43:26

17 MR. OSTOJIC: Same objections, incomplete 16:43:28  
18 hypothetical, but go ahead. 16:43:30

19 BY THE WITNESS: 16:43:36

20 A. It only shows that it works over the 16:43:36  
21 distances specified here. 16:43:40

22 BY MR. KOPEL: 16:43:46

23 Q. So, in fact, this data cannot support 16:43:46  
24 any sort of finding that these repellers would work 16:43:54

1           A.       Different test group. The tunnel itself       16:52:34  
2       should be considered the tunnel.                       16:52:40

3           Q.       Should it be considered Chamber B?       16:52:42

4           A.       It shouldn't be considered Chamber B any   16:52:46  
5       more than the hallways in the Potter studies should   16:52:48  
6       be considered the front room.                       16:52:52

7           Q.       Is that a no, it should not be           16:52:54  
8       considered Chamber B?                               16:52:56

9           A.       Yes.                                       16:52:58

10          Q.       Okay. And it shouldn't be               16:53:00  
11       considered -- okay. And this test was done by       16:53:02  
12       Intertek, you see that, right?                   16:53:06

13          A.       Uh-huh.                                   16:53:08

14          Q.       And that's the same company that did     16:53:08  
15       this other test we're looking at, correct?       16:53:10

16          A.       But since it doesn't specify what they    16:53:14  
17       did, we don't know.                               16:53:14

18          Q.       You don't know --                       16:53:16

19          A.       The rules got changed in 2016 when they   16:53:18  
20       stuffed more in, and it was different people       16:53:20  
21       running the tests, was it not? Well, I guess it's    16:53:26  
22       still Leo Lin and Sam Lin.                       16:53:30

23          Q.       No, it's the same people.               16:53:32

24          A.       Okay.                                   16:53:32

1 Q. But you don't know, they might have 16:53:34  
2 counted it as Chamber B; you just don't know, 16:53:36  
3 correct? 16:53:40

4 A. Yes. I'm sorry. 16:53:42

5 Q. That's fine. How many mice or rats died 16:53:44  
6 during the course of this 2014 testing? 16:53:52

7 A. During the 2014 testing? 16:53:56

8 Q. It's not a memory test. You can look at 16:54:02  
9 it. 16:54:06

10 A. 2014, that's this one. Can you give 16:54:06  
11 me a -- 2014 test is 13? 16:54:18

12 Q. Yes, this was 13, and I'm -- it began -- 16:54:28

13 MR. OSTOJIC: I think it was from 55. 16:54:36

14 BY MR. KOPEL: 16:54:36

15 Q. 55 and onward. 16:54:40

16 A. Okay. Since we start with ten rats and 16:54:42  
17 on post testing we still have seven and three and 16:55:14  
18 eight and four, it would appear that none of them 16:55:18  
19 could have died, but there must be -- oh, wait, 16:55:24  
20 excuse me, that's six and four for the final post 16:55:28  
21 testing day, so you still have ten rats on the 16:55:32  
22 final day which means no rats died in that test. 16:55:34

23 Q. If a rat had died in the middle of the 16:55:36  
24 testing period and was replaced by a new rat, would 16:55:42



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1 that be proper? 16:55:44

2 A. They did that in the 2016. There is no 16:55:50  
3 indication they ever did that in 2011 or 2014. It 16:55:54  
4 would not be proper. 16:55:58

5 Q. Do you know that they didn't do that in 16:56:06  
6 2011, 2014? 16:56:08

7 A. They would have had to mention it if 16:56:10  
8 they replaced an animal. They mentioned the deaths 16:56:12  
9 of them in 2016. Potter was all over it. 16:56:16

10 Q. Okay. Please take a look at the 2016 16:56:24  
11 test and tell me where they mention the death? 16:56:28

12 A. Actually, it's Potter who mentioned it, 16:56:32  
13 complained that there was death and replacement of 16:56:34  
14 rats in the 2016 test. 16:56:36

15 Q. Okay. My question was can you please 16:56:38  
16 identify -- you just said that they mentioned death 16:56:40  
17 in the 2016 test, so I'm asking can you please 16:56:44  
18 identify where it says that? 16:56:48

19 A. I'm not sure Intertek mentioned it. 16:56:48

20 MR. OSTOJIC: If you want to go through it, 16:56:50  
21 the question is -- he wants you to find it. I 16:56:52  
22 think it's Exhibit 14. 16:56:58

23 BY THE WITNESS: 16:57:30

24 A. It doesn't look as though any died. 16:57:30

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1 MR. OSTOJIC: It does. 16:57:34

2 THE WITNESS: Pardon? 16:57:34

3 BY MR. KOPEL: 16:57:34

4 Q. In 2016. 16:57:36

5 MR. KOPEL: Please don't communicate with the 16:57:40

6 witness right now. 16:57:42

7 MR. OSTOJIC: Go through the entire Exhibit. 16:57:46

8 I know it's late and we've been here hours. 16:57:48

9 BY THE WITNESS: 16:57:54

10 A. Okay. They start with 20 rats 16:57:54

11 and -- okay. During preliminary testing they're 16:57:56

12 down to 18 rats, so, yes, they did, and then 16. 16:58:00

13 Somehow they must have added rats in there because 16:58:06

14 now you're up to 19 and 20, 20, 19. So, yes, if I 16:58:08

15 recall correctly, five to seven rats died in it. 16:58:14

16 MR. OSTOJIC: Look at the entire Exhibit. 16:58:18

17 Review the entire Exhibit. He wants you to go 16:58:22

18 through the Exhibit. 16:58:24

19 BY THE WITNESS: 16:58:52

20 A. I'm not sure where you're looking or 16:58:52

21 what you're driving at. 16:58:58

22 BY MR. KOPEL: 16:58:58

23 Q. Let's slow down, okay. I think you 16:58:58

24 mentioned earlier that the 2016 test notes when the 16:59:02

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1 mice and the rats died. Do you recall saying that? 16:59:06

2 A. Well, it certainly shows the decrease in 16:59:12

3 total numbers, and since we're dealing with 16:59:14

4 Plexiglas, it's a little hard to figure out where 16:59:18

5 they disappeared. 16:59:20

6 Q. Right. So it's apparent from the 16:59:22

7 numbers. Do you see any notes discussing how many 16:59:24

8 died? 16:59:26

9 MR. OSTOJIC: Objection. The document speaks 16:59:26

10 for itself, but GO through the entirety of the 16:59:28

11 document, especially -- 16:59:32

12 MR. KOPEL: Don't -- please don't do that. 16:59:34

13 MR. OSTOJIC: It's without purpose. It's 16:59:40

14 there. 17:00:10

15 BY MR. KOPEL: 17:01:38

16 Q. The question pending, just as a 17:01:38

17 reminder, is can you please show me where in the 17:01:40

18 2016 report there is a notation that dead rats were 17:01:42

19 found or mice? 17:01:48

20 A. I'm not finding that notation anywhere. 17:01:52

21 The variation in numbers confounds me. 17:01:56

22 Q. The variation in numbers seems to imply 17:01:58

23 that mice and rats had died in the middle of the 17:02:02

24 experiment and then were subsequently replaced. 17:02:04

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1 Would you agree with that? 17:02:08

2 A. It would imply that. 17:02:10

3 Q. Okay. Do you have any -- 17:02:12

4 A. And Dr. Potter stipulated the same thing 17:02:16

5 about this, that there were rats replaced during 17:02:18

6 the study. 17:02:22

7 Q. Do you have any indication whether the 17:02:24

8 same thing occurred -- do you have any indication 17:02:30

9 that the same thing did not occur in the 2014 test? 17:02:32

10 MR. OSTOJIC: Objection, already asked and 17:02:34

11 answered. 17:02:36

12 BY THE WITNESS: 17:02:38

13 A. There is no indication of fluctuation in 17:02:38

14 the numbers. Everyday's rat total adds to ten. 17:02:40

15 BY MR. KOPEL: 17:02:46

16 Q. Would there need to be, or could they 17:02:46

17 have replaced them at another point in which they 17:02:48

18 were not counted? 17:02:52

19 MR. OSTOJIC: Object to form, foundation. 17:02:52

20 BY THE WITNESS: 17:02:56

21 A. That would be pure speculation since 17:02:56

22 it's not recorded in their tables. 17:02:58

23 BY MR. KOPEL: 17:03:00

24 Q. So we don't know either way, correct? 17:03:00

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1 MR. OSTOJIC: Object to form, foundation. 17:03:02

2 BY THE WITNESS: 17:03:10

3 A. I guess that's true. 17:03:10

4 BY MR. KOPEL: 17:03:12

5 Q. Does that make you question the 17:03:12

6 qualifications of Leo and Sam Lin? 17:03:12

7 A. On the basis of supposition that they're 17:03:20

8 not putting in information? 17:03:24

9 Q. No. So maybe I'll clarify. Does the 17:03:26

10 fact that Leo and Sam Lin replaced dead rats in the 17:03:28

11 2016 study make you question their qualifications 17:03:32

12 to performing these kinds of tests? 17:03:36

13 A. They did it out of desperation trying to 17:03:38

14 keep the test valid which of course we've already 17:03:42

15 said it wasn't. 17:03:46

16 Q. Okay. Do you believe that a qualified 17:03:48

17 scientist would do such a thing? 17:03:50

18 A. I wouldn't, but we don't know whether 17:03:56

19 Intertek decided they needed -- whether Diane 17:04:02

20 Feuerstein said we need to have more rats in here 17:04:08

21 or more mice in here. We don't know the source of 17:04:10

22 it. 17:04:14

23 Q. If Ms. Feuerstein said that to you, 17:04:14

24 would you do it? 17:04:16

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1 A. Would I, no. 17:04:16

2 Q. Would any qualified scientist do that? 17:04:18

3 MR. OSTOJIC: Object to form, foundation, but 17:04:20

4 go ahead and answer. 17:04:22

5 BY THE WITNESS: 17:04:22

6 A. A scrupulous scientist would not, but 17:04:22

7 we're looking at a test that was flawed to begin 17:04:28

8 with. 17:04:32

9 BY MR. KOPEL: 17:04:32

10 Q. So would you agree that this tends to 17:04:32

11 show that Leo and Sam Lin were not scrupulous 17:04:34

12 scientists? 17:04:38

13 MR. OSTOJIC: Object, form, foundation, 17:04:38

14 mischaracterizes his testimony. 17:04:40

15 BY THE WITNESS: 17:04:44

16 A. Yeah, I don't have enough data to 17:04:44

17 support that. It's not my nature to accuse anybody 17:04:46

18 of misdeed or judge on their -- on supposition of 17:04:54

19 misdeeds whether they are conscientious enough 17:04:58

20 about their work to carry out a simple count. 17:05:04

21 BY MR. KOPEL: 17:05:08

22 Q. And I wasn't trying to cast aspersions 17:05:08

23 but -- 17:05:16

24 MR. OSTOJIC: Yeah, that's what you did. 17:05:16